

THE UNITED STATES DISTRICT COURT  
 THE NORTHERN DISTRICT OF ILLINOIS  
 EASTERN DIVISION

FILED

OCT 23 2012  
 OCT 23 2012  
 THOMAS G. BRUTON  
 CLERK, U.S. DISTRICT COURT

GERARD REED

PLAINTIFF

-vs-

MARCUS HAROLD ET AL

No. 11 C 3777

HONORABLE JAMES B. ZAGEL

Judge Presiding

LOCAL RULE 56. NOTICE BY PRO SE LITIGANT  
REQUESTING FACT FINDING FOR SUMMARY JUDGEMENT

THE PLAINTIFF MOVE TO ANSWER SUMMARY JUDGEMENT TO THE DEFENDANTS MOTION. PLAINTIFF IS ALSO CLAIMING THAT THE DEFENDANT, ACTED IN A COLORABLE DISREGARD TO THE PLAINTIFF CONSTITUTIONAL RIGHTS, BY LAW.

PLAINTIFF HAS/AND WILL ANSWER TO THE FOLLOWING FACTS IN WHICH THE ATTORNEYS FOR THE DEFENDANTS HAS DRAFTED UP.

PLAINTIFF RESPONSE WILL COMPLY WITH RULE (56-E) RULE 56(9). IN WHICH THE DEFENDANT SUPPORTED AFFIDAVIT WAS IN BAD FAITH. ALSO PLAINTIFF WILL ANSWER EVERY PARAGRAPH IN THE DEFENDANTS STATEMENT OF FACTS. WHICH PLAINTIFF DO NOT AGREE, AND WILL EXPLAIN WITH DOCUMENT AND COUNTER-FACTS TO SUPPORT PLAINTIFF CONSTITUTIONAL CLAIM.

PLAINTIFF WILL ALSO DEMONSTRATE THE LAW THAT THE DEFENDANTS ARGUE, DO NOT RELY ON THE ACTIVE FINDING OF FACTS AND LAW.

Respectfully Submitted

GERARD REED PRO SE.

THE UNITED STATES DISTRICT COURT  
THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

GERALD REED	)	
PLAINTIFF	)	No. 11 C 3777
v.	)	HONORABLE JAMES D. ZAGEL
MARCUS HARBOY/ET,AL	)	Judge Presiding

PLAINTIFF RESPONSE TO DEFENDANTS  
MOTION FOR SUMMARY JUDGEMENT.

NOW COMES PLAINTIFF GERALD REED pro-se, in his own capacity, request that this honorable court deny the DEFENDANTS SUMMARY JUDGEMENT.

PLAINTIFF SUBMITS this response to DEFENDANTS MOTION, BECAUSE DEFENDANTS HAVE FAILED TO MEET THEIR BURDEN OF DEMONSTRATING THAT THERE IS NO DISPUT AS TO ANY MATERIAL FACT, AND BECAUSE THE FACTS SET FORTH IN PLAINTIFF STATEMENT OF MATERIAL FACTS AND THE ATTACHED EVIDENCE SHOW THAT DEFENDANTS VIOLATED PLAINTIFF'S CLEARLY ESTABLISHED CONSTITUTIONAL RIGHTS, THIS COURT SHOULD DENY DEFENDANTS MOTION.

1.) PLAINTIFF WAS AN INMATE INCARCERATED AT STATEVILLE CORRECTIONAL CENTER, AT THE TIME OF THE OCCURRENCE ALLEGED IN HIS COMPLAINT (SOFT 1) SEE ~~EX. C~~ pg. 2

(PLAINTIFF'S RESPONSE) PLAINTIFF IS CURRENTLY INCARCERATED AT STATEVILLE CORRECTIONAL CENTER. EX. C pg. 13

2.) DEFENDANT DOWNS, AT THE TIME OF THE ALLEGED VIOLATION, WAS A CORRECTIONAL OFFICER AT STATEVILLE

CORRECTIONAL CENTER (SO7 912)

(PLAINTIFF RESPONSE) CORRECTIONAL OFFICER DENNIS IS PRESENTLY AT SERVICE/AND WORK AT STATEVILLE CORRECTIONAL CENTER. (SO7 912), ALSO EX. C pg. (13)

#3) DEFENDANT ENCARNACION, AT THE TIME OF THE ALLEGED VIOLATION, WAS A SERGEANT AT STATEVILLE CORRECTIONAL CENTER (SO7 913) (PLAINTIFF RESPONSE) AT THE TIME OF THE VIOLATION MR. ENCARNACION WAS A SERGEANT AT STATEVILLE, BUT NOW IS RETIRED FROM STATEVILLE CORR. CENTER. EX. C pg. (13)

#4) DEFENDANT WRIGHT, AT THE OF THE VIOLATION WAS A LIETENANT AT STATEVILLE CORRECTIONAL CENTER (SO7 914)

(PLAINTIFF RESPONSE), DEFENDANT WRIGHT IS A LIETENANT AT THE TIME OF THE VIOLATION (S.O7 914) AND CURRENTLY IS STILL WORKING AT STATEVILLE. EX. C. pg. (13)

#5) DEFENDANT EDWARDS, AT THE TIME OF THE VIOLATION WAS AN ASSISTANT WARDEN AT STATEVILLE CORRECTIONAL CENTER (SO7 915)

(PLAINTIFF RESPONSE) AT THE TIME OF THE VIOLATION, WAS ASSISTANT WARDEN EDWARDS AT STATEVILLE CORRECTIONAL CENTER (SO7 915) AND CURRENT A WARDEN AT THE FACILITY OF NRC. IN JOLIET ILLINOIS.

#6) DEFENDANT HARDY, AT THE TIME OF THE ALLEGED VIOLATION, WAS THE WARDEN AT STATEVILLE CORR. CENTER (SO7 916)

(PLAINTIFF RESPONSE) AT THE TIME OF THE VIOLATION WARDEN HARDY WAS/AND STILL CURRENTLY RESIDES AS THE WARDEN AT STATEVILLE CORRECTIONAL CENTER. EX. C pg. 6

## PARTIES

- 1) PLAINTIFF IS AN INMATE INCARCERATED AT STATEVILLE CORRECTIONAL CENTER (STATEVILLE). AT THE TIME THE COMPLAINT AND THE AMENDED COMPLAINT. SEE ATTACHED AMENDED COMPLAINT AS EXHIBIT. (CONTESTED)
- 2) DEFENDANT CHARLES BOWLS IS A CORRECTIONAL OFFICER AT STATEVILLE CORRECTIONAL CENTER, DURING THE TIME PLAINTIFF. AMENDED COMPLAINT (EX. B. PG. 3.) ALSO SEE PLAINTIFF'S DEPOSITION ATTACHED HERETO (EX. C. PG. 6 IN 9-11) ALSO. PLAINTIFF GRIEVANCE ATTACHED (EX. G.) (CONTESTED)
- 3) DEFENDANT JOE EULCARATION WAS A SERGEANT AT STATEVILLE CORRECTIONAL CENTER, AT THE TIME OF THE AMENDED COMPLAINT (EX. B. PG. 3). WHICH IS NOW RETIRED (CONTESTED)
- 4) DEFENDANT CLARENCE WRIGHT IS CURRENT A LIEUTENANT AT STATEVILLE CORRECTIONAL CENTER, AND AT THE TIME OF THE AMENDED COMPLAINT SEE (EX. B. PG. 2) (CONTESTED<sup>NOT</sup>)
- 5) DEFENDANT DARRELL EDWARDS WAS THE ASSISTANT WARDEN OF PROGRAM AT STATEVILLE CORRECTIONAL CENTER, AT THE TIME OF THE AMENDED COMPLAINT SEE EX. B PG. 2) NOW HAS CURRENTLY WENT TO NRC FACILITY AS WARDEN (CONTESTED)

6.) DEFENDANT MARCUS HAROLD is the WARDEN AT STATEVILLE CORRECTIONAL CENTER, DURING THE TIME OF THE AMENDED COMPLAINT SEE (EX. B. pg. 2) (UNCONTESTED)

7.) PLAINTIFF FILED SUIT UNDER 42 U.S.C. 1983, STATING THAT DEFENDANTS ACTED WITH DELIBERATE INDIFFERENCE IN NOT ALLOWING PLAINTIFF TO ATTEND OUT OF CELL EXERCISE WITH HIS CHURCHES, AND THAT THE DEFENDANTS RESTRICTED PLAINTIFF'S ABILITY TO WORSHIP SUNDAY SERVICE, WHICH VIOLATED PLAINTIFF'S EQUAL PROTECTION RIGHT. JUST BECAUSE OF HIM BEING DISABLE WITH CHURCHES AND/OR TWO MAKE A CHOICE BETWEEN THE TWO. SEE (EX. B. pg. 4, 6) SEE ALSO (EX. G.) (CONTESTED)

8.) PLAINTIFF STATES THAT DEFENDANTS HAROLD, EDWARDS, WRIGHT, ENABARACION, AND DOWNS DENIED PLAINTIFF HIS OUT OF CELL EXERCISE (EX. B. pg. 5, 8.) (CONTESTED)

9.) PLAINTIFF SEEKS \$250,000 IN DAMAGES, \$250,000 FOR PAIN AND SUFFERING, IN ADDITION TO PUNITIVE DAMAGES AND THE COST OF COPIES AND FILING FEES (EX. B. pg. 18). (UNCONTESTED)

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PLAINTIFF IS SUING ALL NAMED DEFENDANTS (DOWNS, ENABARACION, WRIGHT EDWARDS AND HAROLD) IN THEIR OFFICIAL AND INDIVIDUAL CAPACITIES. PLAINTIFF HAS MADE SOLA MONETARY CLAIMS, BUT IS SUING THE DEFENDANTS IN THEIR INDIVIDUAL CAPACITY. SEE (MEMORANDUM OF LAW pg. 15 AND 18 AT (5))

## JURISDICTION AND VENUE

10) PLAINTIFF DO NOT CONTEST JURISDICTION AS THE MATTER  
OF POWER OR VENUE. (UNCONTESTED)

## BACK GROUND

11) PLAINTIFF IS REQUIRED THE USES OF CATCHES IN 2010,  
AND HAS USED THEM THROUGHOUT THE TIME BEFORE AND  
AFTER THE AMENOSO COMPLAINT, SEE (EX. C pg. 8-9, IN 8-24 / 1-24).  
(UNCONTESTED)

12) PLAINTIFF IS PRACTISING CHRISTIAN AND IS LISTED AS A  
BAPTIST IN THE OFFENSES TRACKING SYSTEM. SEE (EX. B. pg. 26 IN 1-2)  
ALSO (EX. J-1-4 ) (UNCONTESTED)

13) CHRISTIAN SERVICES ARE HELD AT STATEVILLE ON SUNDAYS  
SEE (EX. B pg. 25 IN 7-24) ALSO (EX. M

ONE SERVICE IS HELD FROM 9:AM TO 11:AM. AND THE SECOND  
SERVICE IS HELD ON/OR ABOUT 12:PM. TO 2:PM SEE (EX. C pg. C IN 6-72)  
(CONTESTED)

14) Church services are held in a classification manner. All  
aggressive level inmates attend together on one Sunday B-house  
AND E-house. AND NONE aggressive level inmates attend the  
following week D-house AND C house vice versa. Along with  
Y-house, SEE (EX C pg. 28-31 IN 1-24)



15) Whether an individual with /or without churches can not attend christian service every week. see (EX C pg. 28. in 1-13 (CUL-CONTEST) / (CONTESTED)

16) Plaintiff has no additional option to church services / or AGAPE BIBLE STUDY (EX. C pg. 31-38 in 22-24 / 1-24) (CONTESTED)

17) INMATES that can attend AGAPE BIBLE STUDY until he has a disciplinary action, that would land him in segregation or miss three consecutive weeks, with informing the chaplain Department (EX. C pg. 33 in 2-24) see also (EX. E pg. 5.) (CONTESTED)

18) Plaintiff has attended a weekly "Saturday" Bible Study back in 2010. which doesn't fulfill the overall requirement of a person's faith (see EX. C pg. 25 in 7-10) see also (EX. A / 4.) (CONTESTED) MEMORANDUM of law.

19) Before August 2010. Plaintiff was able to attend / and / out of cell exercise with his churches every week for 2 1/2 hours. with inmates on his gallery. (EX B. pg. 9) also (EX C pg. 5-6. in 18-24 / 1-6) (CONTESTED) see also (EX-K)

20.) ON/OR ABOUT August 2010. PLAINTIFF AND THOSE WITH THE ASSISTANCE OF CRUTCHES WAS DENIED WEEKLY OUT OF CELL EXERCISE, AND THOSE WITHOUT CRUTCHES OR ANY DISABILITY WAS ALLOWED TO ATTEND WEEKLY OUT OF CELL EXERCISE. BESIDE IF THEY WERE ADMITTED IN THE HOSPITAL OR HOUSED IN THE HCU. SEE (EX. B. pg. 9) (CONTESTED) SEE (EX. 1)

21.) DURING THE MONTH ON/OR ABOUT August 2010. PLAINTIFF HAD ATTENDED THE FOLLOWING ACTIVITIES WITHIN THE STATEVILLE CORRECTIONAL CENTER, TO THE LUNCH AND DINNER, WITH THE REST OF THE INMATES ON HIS GALLERY EVERYDAY, IF HE CHOOSES TO, "THE LAW LIBRARY WHEN ABLE. FAMILY VISITING, ATTORNEY VISITING ROOM, WEEKLY CLASSES "THE YAHOO HOO INITIATIVE, THE SHOWER, AND THE HOSPITAL. ALL THESE PLACES PLAINTIFF ATTENDS WITH HIS CRUTCHES. BUT NOT THE OUT OF CELL EXERCISE/RECREATION. SEE (EX. C pg. 11 IN 20-21, C pg. 78 IN 1-20). (CONTESTING) IN THESE PLACES, PLAINTIFF WILL DEMONSTRATE THAT HE CAN ATTEND 22.) THE OUT OF CELL EXERCISE ID. SEE (EX. D. pg. 7) (CONTESTED)

23.) THE INSTITUTION HAD NEED TIME TO ACCOMMODATE THE INMATES WITH CRUTCHES, A TIME, DATE, PLACE FOR 5 HOURS ON THE WEEK. WHICH IS ONLY SUNDAYS AT 9:AM to 1:30 PM OR 2 PM. SEE (EX. C pg. 15 IN 4-21, C pg. 16 IN 1-21 ALSO EX. D) (CONTESTED)

24.) IN DECEMBER 2010, INMATES AT STATEVILLE CORR. CENTER RECEIVED A MEMO DATED "SEPTEMBER" 2010. NOTIFYING THEM



that inmates with crutches will be allowed access to the out of cell exercise / recreation (see EX. D) also (EX. B. pg. 8) throughout the months of Sept. Oct. and Nov. the staff was instructed to tell inmates with crutches, to wait until the facility found a place / or space, where those with a crutch / or crutch can attend out-of-cell exercise / recreation see (EX. B. pg. 6) also (EX. C pg. 15 in 3-24.) (contested)

24.) Since December 2010 Plaintiff and all other inmates with crutches are able to go to yard from on/or about 9 AM to 1: PM 3 hours on Sunday (see EX. B pg. 9) also (EX C pg. 20 in 18-24) also EX. C pg. 21 in 1-24) also (EX D) (contested) Defendant allowed on 4 hours, see Defendant <sup>and</sup> contested facts.

25.) Yard time schedule and time with inmates with the use of crutches begins to run between the same hours 8: AM / or 9 AM til 1: PM. (see EX C pg. 23 in 11-24) (contested) Plaintiff has subpoena the church schedule but have to go a response (Sept 10, 2012 and Sept 18, 2012) see (EX M) also (EX D)

26.) All inmates who has access to a crutch / or crutches attend the same yard, and ~~only~~ that same yard every week. And up until the time of the deposition, no more than 12 inmates attended (EX. C pg. 17 in 2-12) also (EX. C) (contested) Everyone else go to south yard and gym see (EX. D)

22) Plaintiff possibility to attend Christian service has not changed. Due to the fact that the WARD, Plaintiff is scheduled to go on the same days. Due to the following, scheduled WARD time/AND Christian service times run together (see EX.C pg. 22 in 1-11) Also (see EX.C pg. 26 in 11-14.) (Contested) Muslim service (Friday) Qe have witness (Saturday) Calath service (Saturday) AND Hebrew (Monday). No other religious gathering runs in accordance with a scheduled WARD day. BUT Hebrew. see (EX.D.) see also (EX.M)

28.) Defendant DOWD, ENCARNACION, WRIGHT ARE NAMED IN the lawsuit. Because these people personally influenced AND DENIED Plaintiff access to out of cell exercise, between the months of September to December per the institutional policy/Memo to Warden HARRIS see (EX.C pg. 61 in 13-24) Also MEMORANDUM OF LAW (Contested).

29.) Plaintiff NAMED Defendant HARRIS AND EDWARDS IN the lawsuit. For the following reasons, the Warden's has enforced a policy AND rule, which plainly discriminated against Plaintiff see (EX.B pg. 10/11) Also (EX.C pg. 44 in 14-23) (Contested) these Defendants were put on notice that they were violating Plaintiff's right, but they refuse to personally do something to stop it. so they are sued in their individual capacity. (see MEMORANDUM OF LAW).

30.) Each Defendant is sued in their individual capacity. Because they turn a blind eye to justice and the constitution. (contested) see (EX. B).

31.) These Defendants discriminated against those with a disability to prevent those with a crutch or crutches to not attend out of cell association with other inmates in population. (see EX. B.) (contested) see also (EX. H).

32.) Defendant argued that the fact that Plaintiff went to Bible study (ABAP), that it was a substitute for not being allowed to attend (summary) Christian services held for all population inmates as a Christian see (EX. I) also Memorandum of Law. (contested)

33.) Plaintiff could not substitute one service, when in fact Plaintiff was not in attendance. Because of the instructor was not present. see (EX. A) and (EX. X). (contested)

Wherefore, for the foregoing reasons, and the reasons stated in the attached Memorandum of Law, contested by Plaintiff. Plaintiff respectfully request that this court deny summary judgment in the favor of all the claims the Plaintiff brought to the court attention. And give relief that you deem appropriate and just.

GERALD REED  
Respectfully submitted